

ACT 105

S.B. NO. 98

A Bill for an Act Relating to Education.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the interagency working group established pursuant to part VIII of Act 51, Session Laws of Hawaii 2004, the "Reinventing Education Act of 2004," as amended by Act 225, Session Laws of Hawaii 2006 (Act 51, as amended), has recommended to the legislature that the transfer of functions from the department of health to the department of education specified in Act 51, as amended, be amended to repeal the transfer of the public health nurses who supervise school health aides. The school health aides are scheduled to transfer July 1, 2007, from the department of health to the department of education.

The interagency working group report states that the department of education and the department of health supported the transfer of the school health aides and the repeal of the transfer of the public health nurses who supervise school health aides. The report also stated that the Hawaii Government Employees Association opposed the transfer of the school health aides. The Hawaii Government Employees Association stated that its objection to any transfer of state employees to the department of education is based on its concern for those employees whose positions and funds might be allocated to the schools through the weighted student formula. The department of education stated that a policy decision has been made not to allocate the school health aides positions through the weighted student formula for the fiscal biennium 2007-2009.

The legislature further finds that the department of education and the department of health have agreed that those public health nurses who supervise the school health aides should remain at the department of health and provide clinical supervision to the school health aides through a service level agreement or memorandum of understanding. Both departments recognize that transferring the public health nurse positions to the department of education would require the department

of health to request replacement positions to carry out essential public health functions. Additionally, the number of public health nurses that would be transferred to the department of education would be insufficient to provide the level of supervision necessary for the school health services program. As a result, both departments have concluded that the best method of supporting the school health services program is to provide clinical supervision for school health aides through a service level agreement or memorandum of understanding.

The school health aides are the primary component of the school health services program established within the department of health. With the transfer of the school health aides to the department of education, the program should also be transferred to the department of education.

The purpose of this Act is to:

- (1) Repeal the transfer from the department of health to the department of education those public health nurses who supervise the school health aides; and
- (2) Repeal the school health services program from chapter 321, Hawaii Revised Statutes, and enact the program in chapter 302A, Hawaii Revised Statutes.

SECTION 2. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . SCHOOL HEALTH SERVICES PROGRAM

§302A- Purpose; establishment of program. The purpose of this part is to establish a statewide school health services program. There shall be within the department a permanent comprehensive school health services program for grades kindergarten through twelve in all the public schools of this state. It is in the general welfare of the state to protect, preserve, care for, and improve the physical and mental health of Hawaii’s children by making available at the public schools first aid and emergency care, preventive health care, health appraisals and follow-ups, and health room facilities.

§302A- Teenage health program. The department, in cooperation with the department of health, may establish a statewide teenage health program designed to enhance self-esteem, facilitate communication between students and their parents, incorporate ho‘oponopono techniques in group discussions, expand peer counseling efforts, and provide more counseling opportunities. In implementing this program, the department shall strive to respect and include the diverse needs and values of parents and teenagers served by the program.

§302A- Department implementation. The department shall implement this program with the present health services now provided to those schools under the pilot project established under Act 130, Session Laws of Hawaii 1970, to each public school, and further provide the necessary number of health aides to serve each public school. The department may provide health-related screening services at each public school.

School health aides may assist students by administering oral and topical medication, and in emergency situations, other premeasured medication; provided that:

- (1) If the student receiving the medication is a minor, a parent or guardian requests and authorizes the administration of medication;
- (2) The medication has been prescribed by a licensed physician, as defined in section 334-1, or by a practitioner with prescriptive authority;

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- (3) The administration of the medication is with the approval of the department of health; and
- (4) The administration of the medication is necessary for the health of the student and for the student's attendance at school.

§302A- School health aides. All full-time school health aides employed in the department shall be employed and have their compensation fixed in accordance with chapter 76 and the appropriate collective bargaining agreement, executive order, executive directive, or rule; provided that the compensation shall be based on a six and one-half hour work day; provided further that:

- (1) The monthly rate of compensation for all school health aides employed less than full-time shall be based on the number of hours they actually work;
- (2) The monthly rate of compensation for full-time health aides so determined shall be multiplied by ten and then divided by twelve and the resulting amount shall be the employee's monthly salary payable over a twelve-month period; and
- (3) The health aides shall have the same working schedule and leave allowance as school teachers in the department.

§302A- Rules. The superintendent of education shall adopt rules pursuant to chapter 91 for the purposes of this part."

SECTION 3. Act 51, Session Laws of Hawaii 2004, as amended by Act 221, Session Laws of Hawaii 2004, as amended by Act 22, Session Laws of Hawaii 2005, as amended by Act 225, Session Laws of Hawaii 2006, is amended by amending section 47 to read as follows:

"SECTION 47. (a) All the rights, powers, functions, duties, and resources of:

- (1) The department of budget and finance relating to the:
 - (A) Funding of collective bargaining agreement increases; and
 - (B) Securing, administering, use, and expending of federal funds and other aid, including their custodial supervision; and
- (2) The department of health relating to school health aides [~~and public health nurses who supervise school health aides;~~],

are transferred to the department of education effective July 1, 2007, subject to repeal by subsequent legislation.

(b) All moneys budgeted in support of each position to be transferred to the department of education, including moneys for direct and indirect employee benefits, are transferred to the department of education effective July 1, 2007, subject to repeal by subsequent legislation."

SECTION 4. Effective July 1, 2007, the department of education shall provide career pathways development and training opportunities to all school health aides in the school health services field and other fields within the department of education to ensure the opportunity for continued employment with the department of education.

SECTION 5. Chapter 321, part XIX, Hawaii Revised Statutes, is repealed.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 7. This Act shall take effect on June 29, 2007.

(Approved May 29, 2007.)